

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 710 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
2 to 5 No

BABULAL GULZARILAL AGRAWAL

Versus

STATE OF GUJARAT

Appearance:

MR VIPUL S MODI for Petitioners

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 03/03/98

ORAL JUDGEMENT

1. Heard Mr.K.B.Anandjiwala for petitioners and Mr.K.T.Dave, Ld.APP for respondent. Rule. Ld.APP Mr.K.T.Dave waives service of rule.

2. The petitioners are charged for having committed offence made punishable under section 498, 306, 304B, 114 IPC vide Cr.No.I-102/97 at Ambaji town police station. The son of the present petitioners was married to

deceased victim 1 and 1/2 years back. That during the married life the husband and wife namely Devendra and Mamata were staying separately at Ambaji. According to prosecution case on 3.10.97 said Mamata was found in hanging condition from the fan at the residential premises and thereafter the husband--Devendra came to know about the incident that the door was bolted from inside. Devendra has seen from hole of the door and he suspected and informed the neighbours as well as police. On said information the investigation officer attached with the Ambaji town police station had investigated and initially registered the incident as unnatural death and started enquiry under section 174 Cr.P.C. That thereafter on 13.10.97 the father of the deceased-Mamata lodged the FIR against present petitioners as well as the husband of the deceased and the son of the present petitioner-Devendrakumar, other son of the present petitioner Babulal, daughter of the present petitioner Vejantiben and Rajuben. That the translated copy of FIR produced vide annexure "A" on running page 1 of the compillation discloses the fact that the father of the deceased Nandlal Rameshwarlalji Agrawal has stated before the police that on 30.9.97 he had gone to Ambaji and had seen deceased Mamata and at that time deceased Mamata had told him that she was facing lot of difficulties as she was harassed on account of insufficient amount paid by the parents of deceased to the in-laws on the auspicious occasion of birth of male child. That thereafter the father of the deceased had tried to pacify Mamata and had left and soon on 3.10.97 he received the news about the said incident. He has also stated that he has reasons to believe that the petitioners who are the father-in-law and mother-in-law of deceased Mamata as well as other accused, the brother-in-law and sister-in-law were harassing Mamata on account of insufficient payment of amount on the auspicious occasion of birth of male child to deceased Mamata. On the said accusations the police have arrested the present petitioners.

3. It may be noted that before the arrest could be effected during the investigation present petitioners had obtained anticipatory bail from the Sessions court, Banaskantha at Palanpur and thereby they were released. That thereaftere Misc.Cri.Appln.No.6623/97 and 6624/97 and 6625/97 were moved by the complainant Nandlal Rameshwarji Agarwal in this court against the hsuband of the deceased Mamata--Devendrakumar as well as against the present petitioners and also against sisters-in-law for for cancellation of bail. That vide order dated 4.7.97 the application of the complainant was allowed for cancellation of bail and the DGP was directed to ensure

fair investigation in the case and if necessary same may be entrusted to other police agency or appropriate direction may be issued to higher police authorities in the district.

4. It appears that thereafter instead of surrendering to the custody the petitioners were admitted in the hospital and thereafter they have moved the present petition on 27.2.98.

5. Mr.K.B.Anandjiwala, Ld.advocate for petitioners has strenuously urged that the petitioner No.1-father-in-law of the deceased Mamata is aged about 56 years and cardiac patient suffering from serious ailment. He has also produced certificate issued about his treatment at running page 21 of the compilation. He further submitted that the petitioner No.2 being a woman is eligible to claim bail under the Law. That she is also suffering from ailment for which she was admitted in the hospital as per certificate produced at page 22 of the compilation. It is also contended by Mr.Anandjiwala that even considering the facts collected by the prosecution the present petitioners were residing separately from the deceased Mamata and her husband Devendrakumar in a different village at some distance. That during the preliminary enquiry under section 174 Cr.P.C. in respect to unnatural death of deceased Mamata statements of complainant and other sons were recorded. However, in none of the statements either of the relatives of Mamata alleged any illtreatment having been given to mamata by present petitioners. It is further submitted that except the allegation made in FIR by the complainant Nandlal Rameshwarjilal Agrawal in respect to insufficient amount given at the time of birth of first male child to deceased mamata there are no details about any harassment or illtreatment meted out to her and thereby considering all these facts coupled with the fact that they are aged persons suffering from serious ailments bail may be granted.

6. Ld.APP Mr.Dave has opposed and has urged that since the commencement of investigation present petitioners have been avoiding arrest initially under the orders of anticipatory bail and thereafter by obtaining medical certificate and getting admitted in hospital. That so far as accusations made against present petitioners are concerned in view of the fact that fateful incident has occurred only within a period of 1 and 1/2 years of the marriage of deceased Mamata with the son of the present petitioners. That deceased mamata has told to her father-complainant to the effect that her

husband as well as present petitioners and brothers-in-law and sisters-in-law are taunting her for not bringing sufficient amount on the occasion of birth of a male child in the family and thereby it was very difficult for her to live there.

7. Shri Anandjiwala has also pointed out that a suicide note translation copy of which is produced at page 20 of the compilation does not involve present petitioners. Id.APP has submitted that close scrutiny of statements made in the suicide note disclose the frustration of woman having suffered the torture which has led her to the fateful incident. In view of these serious accusations bail can not be granted according to settled proposition of law.

8. Having given my anxious thought to the facts and circumstances apparent from the material produced on record in the context of submissions made on behalf of petitioners as well as Id.APP Mr.Dave in my opinion when allegations of serious offences are made against petitioners this can not be treated as a fit case to grant bail to petitioners as prayed.

9. On the basis of above stated discussion present application stands disposed of as rejected. Rule is discharged. No costs.

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